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SUBJECT: DEMOCRATIC REPUBLIC OF CONGO 2007 TRAFFICKING IN
PERSONS REPORT

REF: 06 STATE 202745

OVERVIEW

11. (SBU)

1A. Is the country a country of origin, transit, or
destination for internationally trafficked men, women, or
children? Yes.

Does the trafficking occur within the country's
borders? Yes.

Does it occur in territory outside of the government's
control?

-- Child soldiering, forced labor: Yes, in areas
controlled by militias and foreign armed groups in the
provinces of North Kivu, South Kivu, Katanga, and the Ituri
District of Orientale Province.

-- Child prostitution: No.

Are any estimates or reliable numbers available as to the
extent or magnitude of the problem?

-- Child soldiering: Yes. Virtually all known child
soldiers in the Congolese national army (FARDC) have been
demobilized. Fewer than 4,000 child soldiers remain in armed
groups outside the government's control.

-- Forced labor, child prostitution: No.

What is (are) the source(s) of available information on
trafficking in persons?

-- Child soldiering: Local NGOs, CONADER (the government
demobilization agency), UN Mission to the Congo (MONUC),
UNICEF.

-- Forced labor: Global Witness, Human Rights Watch,
American Center for International Labor Solidarity.

-- Child prostitution: Local NGOs.

How reliable are the numbers and these sources? Fairly
reliable.

Are certain groups of persons more at risk of being trafficked? No.

1B. Please provide a general overview of the trafficking situation in the country and any changes since the last TIP Report.

-- Child soldiering: Virtually all known child soldiers associated with the national army have been demobilized. Approximately 4,000 children associated with armed groups remain to be demobilized.

-- Forced labor: Armed groups outside government control continue to kidnap adults and children for forced labor and sexual slavery. An unknown number of unlicensed miners remain in virtual debt slavery to dealers for tools, food, and supplies.

-- Child labor: There is no evidence that children are being trafficked into labor. Child labor is overwhelmingly a symptom of poverty. Families of child laborers are among the vast majority of workers not employed in the formal economy. Family members work as street vendors, domestic laborers, porters, unlicensed miners, etc. The children are not sold, nor do persons outside the family appropriate their wages.

Also briefly explain the political will to address trafficking in persons.

-- Child soldiering: CONADER demobilized over 13,000 child soldiers in 2006, more than 40 percent of the estimated 33,000 under arms at the end of the civil war.

-- Child and forced prostitution, trafficking for sexual exploitation: A new sexual violence law promulgated in July E

2006 specifically prohibits child and forced prostitution, pimping, and trafficking for sexual exploitation. The Ministry of Justice is working with NGOs to develop public education campaigns about the law. The new government, which took office in early 2007 following 2006-07 presidential, parliamentary, and provincial elections, includes assistance to vulnerable groups, specifically young women engaged in prostitution, among the objectives of its five-year program of action.

-- Child soldiering, forced labor: The transitional government, in coordination with MONUC, reached agreements with Ituri District militias, renegade General Laurent Nkunda in North Kivu, and local self-defense groups (Mai Mai) in North Kivu, South Kivu, and Katanga, that include provisions for the demobilization of child soldiers.

-- Child labor: The transitional government created a National Committee to Combat Worst Forms of Child Labor (NCCL) in June.

Which populations are targeted by the traffickers?

-- Child soldiering, forced labor: People living in areas controlled by armed groups.

-- Child prostitution: Children living in eastern areas of the country who were orphaned during the 1998-2003 civil war.

Who are the traffickers? Armed groups outside government control in the eastern areas of the country.

What methods are used to approach victims? Kidnapping.

What methods are used to move the victims? Forced march.

1C. What are the limitations on the government's ability to address this problem in practice?

-- Financial: The transitional government lacked

sufficient national and human resources to address not only trafficking, but also basic levels of security and services.

-- Military: The military lacks the capacity to forcibly demobilize or repatriate armed groups on its own. The military is poorly trained, supplied, and led, and are inadequately and irregularly paid. The government brokered integration or demobilization agreements with several domestic armed groups this year, but some of the groups failed to fulfill their commitments.

For example, is funding for police or other institutions inadequate?

Yes. The 2006 budget included no appropriation for labor monitors to ensure children are not working at mines, nor for printing and distribution of the new sexual violence law to magistrates, police, and other law enforcement authorities.

Is overall corruption a problem? Yes.

Does the government lack the resources to aid victims?

Yes. The 2006 budget included no appropriation for social services, including for victims of trafficking.

1D. To what extent does the government systematically monitor its anti-trafficking efforts and periodically make available, publicly or privately and directly or through regional/international organizations, its assessments of these anti-trafficking efforts?

CONADER systematically monitors the number of child soldiers remaining in armed groups and shares its assessments with relevant NGOs.

PREVENTION

12. (SBU)

1A. Does the government acknowledge that trafficking is a problem in the country? Yes.

1B. Which government agencies are involved in anti-trafficking efforts and which agency, if any, has the lead?

-- Child soldiering: CONADER (lead), Ministry of Defense.

-- Forced labor: Ministry of Mines, Ministry of Labor, Ministry of Defense (cases involving armed groups outside government control)

1C. Are there, or have there been, government-run anti-trafficking information or education campaigns?

Yes. CONADER conducted extensive public education campaigns against child soldiering, using radio and television messages, posters, flyers, and t-shirts. The campaign's objectives included informing the military that child soldiering was illegal, dissuading children from joining armed groups, and convincing families and communities to reintegrate demobilized children. The campaign has helped ensure that virtually all child soldiers not under the control of illegal armed groups have been demobilized.

Do these campaigns target potential trafficking victims and/or the demand for trafficking?

CONADER targeted families and communities in its campaign for reintegration of child soldiers, including all sectors of society and institutions -- schools, hospitals, the military, government, etc. -- in its campaign.

1D. Does the government support other programs to prevent

trafficking?

Yes. For example, there are billboards and signs throughout the country calling on families to ensure that girls attend school as well as boys.

¶E. What is the relationship between government officials, NGOs, other relevant organizations and other elements of civil society on the trafficking issue?

Mixed. Cooperation between the transitional government and NGOs has been particularly good in facilitating initiatives against child soldiering and developing new sexual violence legislation. CONADER works closely with NGOs to monitor the army for possible child soldiers. The Ministry of Justice worked extensively with NGOs to draft and advocate passage of the 2006 sexual violence code, which includes anti-trafficking and anti-child prostitution provisions.

¶F. Does the government monitor immigration and emigration patterns for evidence of trafficking? No. The government is not yet able effectively to control its borders at all.

Do law enforcement agencies screen for potential trafficking victims along borders? No.

¶G. Is there a mechanism for coordination and communication between various agencies, internal, international, and multilateral on trafficking-related matters, such as a multi-agency working group or a task force?

CONADER and the Ministry of Defense hold weekly coordination meetings, which include communication by CONADER of any suspected cases of child soldiers in military units.

Does the government have a trafficking in persons working group or single point of contact?

No. However, CONADER is the single point of contact on child soldiering.

Does the government have a public corruption task force?

Yes. The Commission on Ethics and the Fight Against Corruption brought several cases to prosecution during the transition.

¶H. Does the government have a national plan of action to address trafficking in persons?

No. However, the goal of the NCCL is to develop and ensure implementation of a national strategy to eliminate the worst forms of child labor, and CONADER's strategy to address child soldiering has also served as a national plan of action on that issue.

¶I3. (SBU)

INVESTIGATION AND PROSECUTION OF TRAFFICKERS

¶A. Does the country have a law specifically prohibiting trafficking in persons -- both for sexual and non-sexual purposes?

No. However, the 2006 sexual violence code, Law 6/018, enacted July 20, 2006, includes new provisions against, and penalties for, trafficking in persons for sexual purposes, forced prostitution, procuring or supporting prostitution (i.e. pimping), sexual slavery, and the prostitution of minors.

Does the law(s) cover both internal and external (transnational) forms of trafficking?

The law applies to all relevant trafficking activities within

Congolese jurisdiction.

For example, are there laws against slavery or the exploitation of prostitution by means of force, fraud or coercion?

Yes. The new constitution, promulgated in February 2006, expressly forbids involuntary servitude. As mentioned above, the 2006 sexual violence code prohibits forced prostitution, among other offenses related to trafficking.

Are these other laws being used in trafficking cases?

Most judicial and law enforcement authorities have yet to receive copies of the 2006 sexual violence code. We will monitor distribution by officials in the new government once they are in place.

Are these laws, taken together, adequate to cover the full scope of trafficking in persons? No.

Please provide a full inventory of trafficking laws, including non-criminal statutes that allow for civil penalties against alleged trafficking crimes.

-- The 2006 sexual violence code (see above).

-- The new 2006 constitution, enacted in February 2006, also which in addition to involuntary servitude, expressly forbids enlistment of persons less than 18 years of age in armed forces.

-- The current labor code, which will be revised along with other relevant laws in accordance with the new constitution, prohibits the employment of children, even as apprentices, under the age of 15, unless exempted by a labor inspector.

1B. What are the penalties for trafficking people for sexual exploitation?

10 to 20 years in prison.

1C. Punishment of Labor Trafficking Offenses: What are the prescribed and imposed penalties for trafficking for labor exploitation, such as forced or bonded labor and involuntary servitude?

Penalties still need to be determined by the new government since the new constitution expressly forbids involuntary servitude.

1D. What are the prescribed penalties for rape or forcible sexual assault?

Five to 20 years in prison, doubled in certain cases.

How do they compare to the prescribed and imposed penalties for crimes of trafficking for commercial sexual exploitation?

The minimum prescribed penalty for trafficking for commercial sexual exploitation is 10 years in prison.

1E. Is prostitution legalized or decriminalized?

No. Forced prostitution is illegal and criminal.

Specifically, are the activities of the prostitute criminalized? No.

Are the activities of the brothel owner/operator, clients, pimps, and enforcers criminalized? Yes.

Are these laws enforced?

No. Most judicial and law enforcement authorities have yet to receive copies of the 2006 sexual violence code.

¶F. Has the government prosecuted any cases against traffickers?

Yes, in prior years, but we are not aware of any cases in 2006.

Are the traffickers serving the time sentenced?

No, the most recent convicted trafficker escaped from jail in ¶2006.

Please indicate whether the government can provide this information, and if not, why not?

Both the Ministry of Justice and the Ministry of Defense were able to provide this information.

¶G. Is there any information or reports of who is behind the trafficking?

Yes. Most traffickers are members of armed groups outside government control. They are responsible for numerous cases of forced labor and child soldiering.

-- The FDLR, Rwandan Hutu rebels operating in North Kivu and South Kivu provinces, are responsible for kidnapping at least 500 persons per year whom they hold for ransom or force to work as porters, cooks, laborers, or sex slaves. They are not known to recruit child soldiers.

-- The Mai Mai, armed groups of local "self-defense forces," operate in North Kivu, South Kivu, and Katanga provinces and are responsible for recruiting and retaining child soldiers who remain to be demobilized.

-- Some officers loyal to Laurent Nkunda, a renegade FARDC commander in North Kivu, are engaged in child soldiering and recruitment, although on a relatively small scale. There is an outstanding arrest warrant pending for Nkunda.

-- A number of armed groups in Ituri District engage in kidnapping children and adults for forced labor, including in mines.

Are government officials involved? No.

Are there any reports of where profits from trafficking in persons are being channeled?

The profits from forced mining labor perpetrated by armed groups are used to maintain the groups' military activities.

¶H. Does the government actively investigate cases of trafficking?

-- Child soldiering: Yes.

-- Child prostitution: No. The government did not interfere in NGO investigation of brothels in South Kivu province and subsequently ordered them closed, however.

-- Child labor: No, as noted above, the government's 2006 budget included no funding for child labor inspectors.

Does the government use active investigative techniques in trafficking in persons investigations? No.

To the extent possible under domestic law, are techniques such as electronic surveillance, undercover operations, and mitigated punishment or immunity for cooperating suspects used by the government?

No. The government has neither the funding nor the expertise to conduct electronic surveillance or undercover operations.

Does the criminal procedure code or other laws prohibit the police from engaging in covert operations? No.

1I. Does the government provide any specialized training for government officials in how to recognize, investigate, and prosecute instances of trafficking?

Yes. The government has provided training to some police and military personnel on sexual violence and child soldiering prohibitions.

1J. Does the government cooperate with other governments in the investigation and prosecution of trafficking cases?

Yes. However, the government was not asked to cooperate with other governments in investigation or prosecution of trafficking cases during the reporting period.

1K. Does the government extradite persons who are charged with trafficking in other countries?

Yes. However, no extraditions were requested during the reporting period.

Does the government extradite its own nationals charged with such offenses? Yes.

1L. Is there evidence of government involvement in or tolerance of trafficking, on a local or institutional level? No.

1M. Have any government officials been prosecuted for involvement in trafficking or trafficking-related corruption? No.

1N. If the country has an identified child sex tourism problem, how many foreign pedophiles has the government prosecuted or deported/ extradited to their country of origin?

The DRC does not have an identified child sex tourism problem.

Do the country's child sexual abuse laws have extraterritorial coverage (similar to the U.S. PROTECT Act)? No.

1O. Has the government signed, ratified, and/or taken steps to implement the following international instruments? Yes.

-- ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor. Ratified 20 June 2001.

-- ILO Convention 29 and 105 on Forced or Compulsory Labor. Ratified 20 June 2001.

-- The Optional Protocol to the Convention on the Rights of the Child (CRC) on the Sale of Children, Child Prostitution, and Child Pornography. Ratified 5 March 2001.

-- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime. Ratified 5 March 2001.

14. (SBU)

PROTECTION AND ASSISTANCE TO VICTIMS

1A. Does the government assist victims, for example, by providing temporary to permanent residency status, relief from deportation, shelter and access to legal, medical and psychological services?

No. The government has provided no appropriations for assisting victims of trafficking.

Does the country have victim care and victim health care

facilities?

Yes. There are numerous NGOs in North Kivu and South Kivu provinces and in the Ituri District of Orientale Province that work with women and girls subjected to sexual violence.

Does the country have facilities dedicated to helping victims of trafficking?

CONADER sends demobilized child soldiers to transit centers for one to two months before they are reintegrated into civilian life. The centers' services are funded by the World Bank and implemented by NGOs

If so, can post provide the number of victims placed in these care facilities?

Approximately 6,000 children during the reporting period.

1B. Does the government provide funding or other forms of support to foreign or domestic NGOs for services to victims?

No. The government provides no funding to NGOs.

1C. Do the government's law enforcement and social services personnel have a formal system of identifying victims of trafficking among high-risk persons with whom they come in contact? No.

Is there a referral process in place, when appropriate, to transfer victims detained, arrested or placed in protective custody by law enforcement authorities to NGO's that provide short- or long-term care?

Yes. NGOs which identify child soldiers in the army bring the cases to the attention of CONADER, which instructs the Ministry of Defense to remove them from the ranks and transfer them to NGO custody.

1D. Are the rights of victims respected, or are victims treated as criminals?

Local authorities have occasionally charged demobilized child soldiers with being members of illegal armed groups.

Are victims detained, jailed, or deported?

They are detained with other children in local jails or prisons.

If detained or jailed, for how long?

Unknown. However, they are generally released quickly if discovered by CONADER, MONUC, or NGOs.

Are victims fined? No.

Are victims prosecuted for violations of other laws, such as those governing immigration or prostitution? No.

1E. Does the government encourage victims to assist in the investigation and prosecution of trafficking? No.

May victims file civil suits or seek legal action against the traffickers?

The government has few functioning courts, making filing and trying such civil suits virtually impossible.

Does anyone impede the victims' access to such legal redress? No.

Is there a victim restitution program? No.

1F. What kind of protection is the government able to provide for victims and witnesses? None.

What type of shelter or services does the government provide?

None.

Does it provide shelter or housing benefits to victims or other resources to aid the victims in rebuilding their lives?

No.

Where are child victims placed (e.g. in shelters, foster-care, or juvenile justice detention centers)?

As noted above, victims are transferred to transit centers, where they are placed in the protective custody of NGOs.

1G. Does the government provide any specialized training for government officials in recognizing trafficking and in the provision of assistance to trafficked victims, including the special needs of trafficked children? No.

Does the government provide training on protections and assistance to its embassies and consulates in foreign countries that are destination or transit countries? No.

Does it urge those embassies and consulates to develop ongoing relationships with NGOs that serve trafficked victims? No.

1H. Does the government provide assistance, such as medical aid, shelter, or financial help, to its repatriated nationals who are victims of trafficking?

There were no reported cases of repatriated nationals who were victims of trafficking.

1I. Which international organizations or NGOs, if any, work with trafficking victims?

MONUC, UNICEF, BVES, Save the Children, War Child, and others.

What type of services do they provide?

Re-integration into the community, vocational training, re-enrollment in primary or secondary education, conflict resolution training, sexual violence counseling, psychological counseling, mediation between children and families, and medical treatment.

What sort of cooperation do they receive from local authorities? Full cooperation.

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